

# PETITION FOR ZONING VARIANCE 84-357-A

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situated in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Variance from Section 1.802.3.C1. to permit a side yard set back of 10' instead of the required 25'.

We only have 40.44' road frontage by 110.0' depth.

Property is to be posted and advertised as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law For Baltimore County.

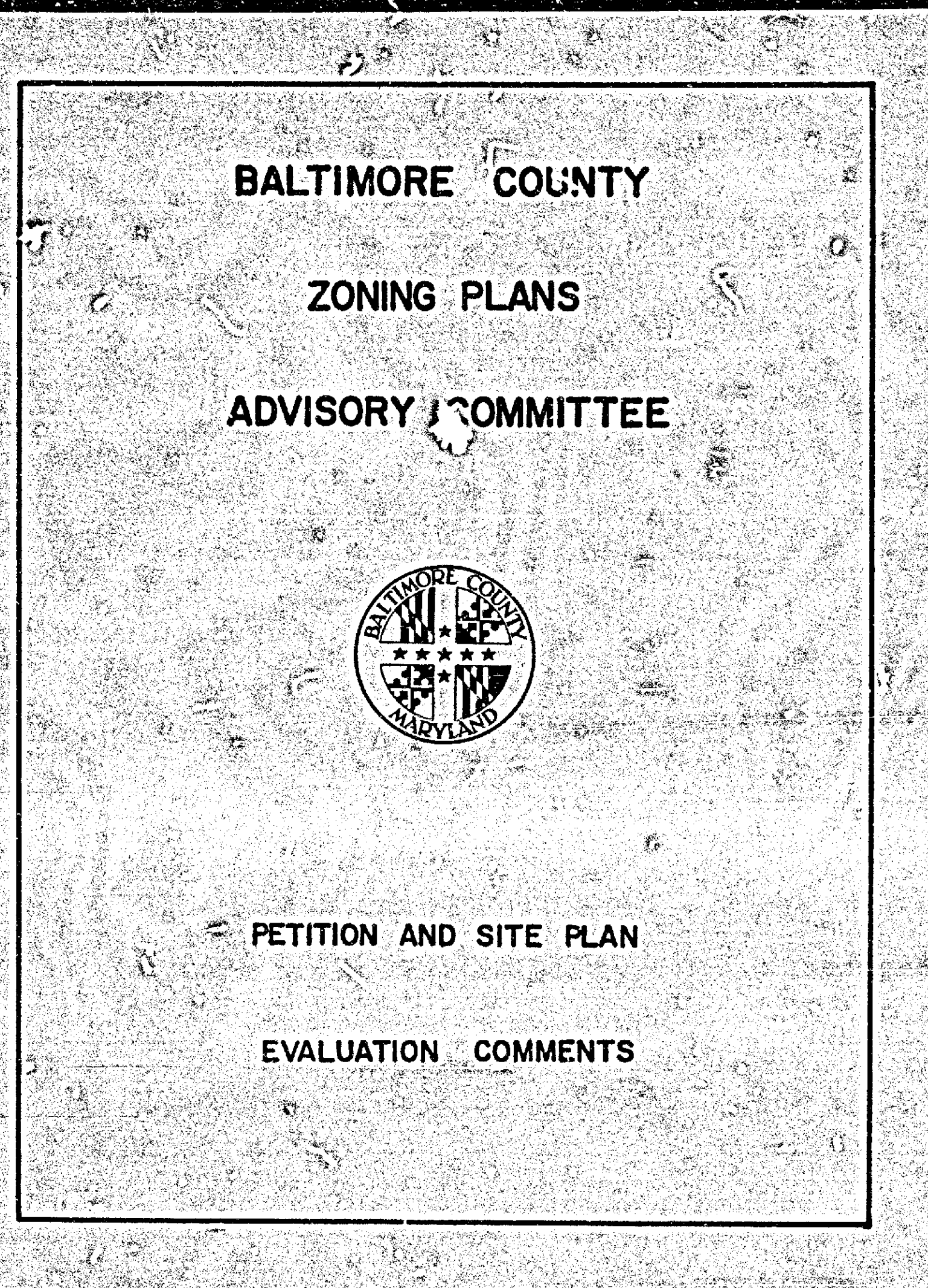
I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser: C. E. Kelley, Inc.  
(Type or Print Name)  
Signature: [Signature]  
Address: 426 Shipley Road  
City and State: Linthicum, MD 21090  
Attorney for Petitioner: [Signature]  
(Type or Print Name)  
Address: 11 E. Mt. Royal Avenue 752-2090  
City and State: Baltimore, Md. 21202  
Name, address and phone number of legal owner, contract purchaser or representative to be contacted  
City and State: [Blank]  
Attorney's Telephone No.: [Blank]

ORDERED BY The Zoning Commissioner of Baltimore County, this 15th day of May, 1984, that the subject matter of this petition be advertised, as required by the Zoning Law of Baltimore County, in two newspapers of general circulation throughout Baltimore County, that property be posted, and that the public hearing be held before the Zoning Commissioner of Baltimore County in Room 106, County Office Building in Towson, Baltimore County, on the 25th day of June, 1984, at 10:00 o'clock A.M.

[Signature]  
Zoning Commissioner of Baltimore County.

(over)



BALTIMORE COUNTY OFFICE OF PLANNING & ZONING  
County Office Building  
111 W. Chesapeake Avenue  
Towson, Maryland 21204  
Your petition has been received and accepted for filing this 15th day of May, 1984.  
Petitioner: Char-del, Inc.  
Attorney: [Blank]  
Received by: [Signature]  
Nicholas B. Commodari  
Chairman, Zoning Plans Advisory Committee

## BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

June 15, 1984

COUNTY OFFICE BLDG.  
111 W. Chesapeake Ave.  
Towson, Maryland 21204  
Nicholas B. Commodari  
Chairman

Mr. Arthur G. Kaplan, Vice President  
Char-del Incorporated  
11 E. Mt. Royal Avenue  
Baltimore, Maryland 21202

RE: Case No. 84-357-A (Item No. 299)  
Petitioner - Char-del Inc.  
Variance Petition

Dear Mr. Kaplan:

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

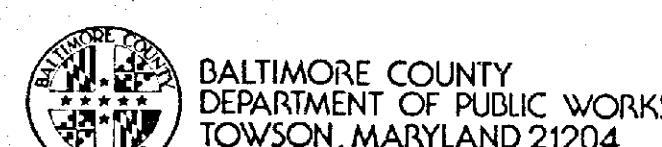
Enclosed are all comments submitted from the members of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

[Signature]  
NICHOLAS B. COMMODARI  
Chairman  
Zoning Plans Advisory Committee

Enclosures

cc: Lewis & Leiby Land Surveyors  
1205 Hillshire Road  
Baltimore, Maryland 21222



HARRY J. PISTEL, P.E.  
DIRECTOR

C-W Key Sheet  
24 SW 12 Pos. Sheet  
SW 6 D Topo  
108 Tax Map

June 8, 1984

Mr. Arnold Jablon  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Re: Item #299 (1983-1984)  
Property Owner: Char-del, Inc.  
576 cor. Halethorpe Ave. & John Street  
Acre: 40.44 X 110 District: 13th

Dear Mr. Jablon:

The following comments are furnished in regard to the plat submitted to this office for review by the Zoning Advisory Committee in connection with the subject item.

### Highways:

Halethorpe Avenue and John Street are proposed to be improved in the future as 30-foot closed section roadways on 50 and 40-foot rights-of-way, respectively, with fillet areas for sight distance at their intersection.

### Sediment Control:

Development of this property through stripping, grading and stabilization could result in a sediment pollution problem, damaging private and public holdings downstream of the property. A grading permit is, therefore, necessary for all grading, including the stripping of top soil.

### Storm Drains:

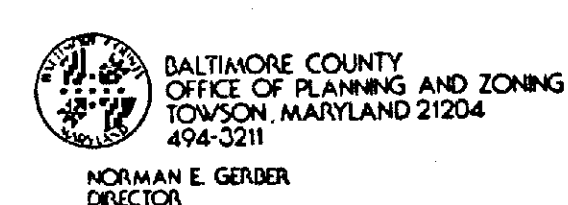
The Petitioner must provide necessary drainage facilities (temporary or permanent) to prevent creating any nuisances or damages to adjacent properties, especially by the concentration of surface waters. Correction of any problems which may result, due to improper grading or improper installation of drainage facilities, would be the full responsibility of the Petitioner.

### Water and Sanitary Sewer:

There is a 6-inch public water main and 8-inch public sanitary sewerage in Halethorpe Avenue.

Very truly yours,  
[Signature]  
GILBERT A. HANSON, P.E., Asst. Chief  
Bureau of Public Services

GSB:EAM:VWR:SS



Mr. Arnold Jablon  
Zoning Commissioner  
County Office Building  
Towson, Maryland 21204

Re: Zoning Advisory Meeting of 5/15/84  
Item # 299  
Property Owner: CHAR-DEL, INC.  
Location: 576 COR. HALETHORPE AVE. & JOHN AVE

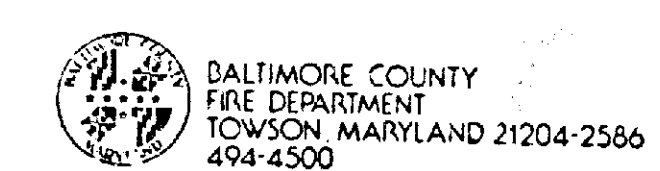
Dear Mr. Jablon:

The Division of Current Planning and Development has reviewed the subject petition and offers the following comments. The items checked below are applicable.

- ( ) There are no site planning factors requiring comment.
- ( ) A County Review Group Meeting is required.
- ( ) A County Review Group meeting was held and the minutes will be forwarded by the Bureau of Public Services.
- ( ) This site is part of a larger tract; therefore it is defined as a subdivision. The plan must show the entire tract.
- ( ) A record plat will be required and must be recorded prior to issuance of a building permit.
- ( ) The access is not satisfactory.
- ( ) The circulation on this site is not satisfactory.
- ( ) The parking arrangement is not satisfactory.
- ( ) This property contains soils which are defined as wetlands, and development on these soils is prohibited.
- ( ) Construction in or alteration of the floodplain is prohibited under the provisions of Section 22-99 of the Development Regulations.
- ( ) Development of this site may constitute a potential conflict with the Baltimore County Master Plan.
- ( ) The amended Development Plan was approved by the Planning Board on [Blank].
- ( ) Landscaping should be provided on this site and shown on the plan.
- ( ) The property is located in a deficient service area as defined by Bill 178-79. No building permit may be issued until a Reserve Capacity Use Certificate has been issued. The deficient service is [Blank].
- ( ) The property is located in a traffic area controlled by a "D" level intersection as defined by Bill 178-79, and as conditions change traffic capacity may become more limited. The Basic Services Areas are re-evaluated annually by the County Council.
- ( ) Additional comments: [Blank]

[Signature]  
Eugene A. Bober  
Chief, Current Planning and Development

cc: James Howell



PAUL H. REINCKE  
CHIEF

May 18, 1984

Mr. William Hammond  
Zoning Commissioner  
Office of Planning and Zoning  
Baltimore County Office Building  
Towson, Maryland 21204

Attention: Nick Commodari, Chairman  
Zoning Plans Advisory Committee

RE: Property Owner: Char-del, Inc.

Location: SE/Cor. Halethorpe Ave. & John Ave.

Item No.: 299

Zoning Agenda: Meeting of 5/15/84

Gentlemen:

Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below marked with an "X" are applicable and required to be corrected or incorporated into the final plans for the property.

- ( ) 1. Fire hydrants for the referenced property are required and shall be located at intervals of [Blank] feet along an approved road in accordance with Baltimore County Standards as published by the Department of Public Works.
- ( ) 2. A second means of vehicle access is required for the site.
- ( ) 3. The vehicle dead end condition shown at [Blank] EXCEEDS the maximum allowed by the Fire Department.
- ( ) 4. The site shall be made to comply with all applicable parts of the Fire Prevention Code prior to occupancy or beginning of operation.
- (X) 5. The buildings and structures existing or proposed on the site shall comply with all applicable requirements of the National Fire Protection Association Standard No. 101 "Life Safety Code", 1976 Edition prior to occupancy.
- ( ) 6. Site plans are approved, as drawn.
- ( ) 7. The Fire Prevention Bureau has no comments at this time.

REVIEWED BY: [Signature] Noted and Approved: [Signature]  
Planning Group Fire Prevention Bureau  
Special Inspection Division

/mb

RE: PETITION FOR VARIANCE : BEFORE THE ZONING COMMISSIONER  
SE Corner Halethorpe Ave. & : OF BALTIMORE COUNTY  
John Ave., 13th District  
CHAR-DEL INC., Petitioner : Case No. 84-357-A

### ENTRY OF APPEARANCE

Please enter the appearance of the People's Counsel in the above-captioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

[Signature]  
Phyllis Cole Friedman  
People's Counsel for Baltimore County

[Signature]  
Peter Max Zimmerman  
Deputy People's Counsel  
Rm. 223, Court House  
Towson, MD 21204  
494-2188

I HEREBY CERTIFY that on this 6th day of June, 1984, a copy of the foregoing Entry of Appearance was mailed to Arthur Guy Kaplan, Vice-President, Char-Del, Inc., 11 E. Mt. Royal Ave., Baltimore, MD 21202, Petitioner; and C. E. Kelley, Inc., 426 Shipley Road, Linthicum, MD 21090, Contract Purchaser.

[Signature]  
Peter Max Zimmerman



Pursuant to the advertisement, posting of property, and public hearing on the Petition and it appearing that strict compliance with the Baltimore County Zoning Regulations would not result in practical difficulty and unreasonable hardship upon the Petitioner(s) and the granting of the variance(s) requested will not adversely affect the health, safety, and general welfare of the community, the variance(s) should /should not be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this day of June, 1984, that the herein Petition for Variance(s) to permit

May 28, 1984

Char-Del Inc.  
c/o Arthur Guy Kaplan  
11 E. Mt. Royal Avenue  
Baltimore, Maryland 21202

**NOTICE OF HEARING**  
Re: Petition for Variance  
SE corner Halethorpe Avenue and John Avenue (paper street)  
Char-del Inc. - Petitioner  
Case No. 84-357-A

TIME: 10:00 A.M.  
DATE: Monday, June 25, 1984  
PLACE: Room 106, County Office Building, 111 West Chesapeake Avenue, Towson, Maryland

cc: C. E. Kelley, Inc.  
426 Shipley Road  
Linthicum, Maryland 21090

*[Signature]*  
Zoning Commissioner  
of Baltimore County

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No. 130214

DATE: 5/2/84 ACCOUNT: 01-615-000  
AMOUNT: \$ 35.00

RECEIVED FROM: S. E. Kelley, Inc.  
FOR: Files, Fee for Variance #299

(Cash) C 415\*\*\*\*\*350010 6424A

VALIDATION OR SIGNATURE OF CASHIER

Office of  
**PATUXENT**  
Publishing Corp.  
10750 Little Patuxent Pkwy.  
Columbia, MD 21044

June 7 19 84

THIS IS TO CERTIFY, that the annexed advertisement of

PETITION FOR VARIANCE

was inserted in the following:

☐ Calonsville Times  
☒ Patuxent Times

weekly newspapers published in Baltimore County, Maryland once a week for one successive weeks before the 9 day of June 19 84, that is to say, the same was inserted in the issues of

June 7, 1984

PATUXENT PUBLISHING CORP.  
By *[Signature]*

IN THE CIRCUIT COURT  
FOR BALTIMORE COUNTY, IN EQUITY

Plaintiff  
vs.  
Defendant

CERTIFICATE OF PUBLICATION OF

**ZONING DESCRIPTION**

BEGINNING on the NE/Side of Halethorpe Avenue at the intersection of the SE/Side of John Avenue (paper street).  
BEING Lots No. 1 and No. 2, Block C Halethorpe Terrace on Plat Book 7, Folio 72, 13th Election District, Baltimore County, Maryland.

**CERTIFICATE OF POSTING**  
ZONING DEPARTMENT OF BALTIMORE COUNTY  
Towson, Maryland

District: 13th Date of Posting: 6-10-84

Posted for: *[Signature]*

Petitioner: Char-del Inc.

Location of property: SE corner of Halethorpe Avenue and John Avenue

Location of Signs: SE corner of Halethorpe Avenue and John Avenue

Remarks: *[Signature]*

Posted by: *[Signature]* Date of return: 6-15-84

Number of Signs: 1

84-357-A

**CERTIFICATE OF PUBLICATION**

TOWSON, MD., June 7, 1984

THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper printed and published in Towson, Baltimore County, Md., appearing on June 7, 1984.

THE JEFFERSONIAN  
*[Signature]*  
Publisher

Cost of Advertising 20.00

PETITION FOR VARIANCE  
The Zoning Department of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the Petition for Variance to permit a side yard setback of 10 ft. instead of the required 25 ft. Being the property of Char-del Inc., as shown on plat plan filed with the Zoning Department.

BALTIMORE COUNTY  
OFFICE OF PLANNING & ZONING  
TOWSON, MARYLAND 21204  
494-3353

ARNOLD JABLON  
ZONING COMMISSIONER

June 14, 1984

Char-del, Inc.  
c/o Arthur Guy Kaplan, Vice-President  
11 E. Mt. Royal Avenue  
Baltimore, Maryland 21202

Re: Petition for Variance  
SE corner Halethorpe Ave. & John Avenue (paper street)  
Char-del, Inc. - Petitioner  
Case No. 84-357-A

Dear Sir:

This is to advise you that \$40.60 is due for advertising and posting of the above property.

This fee must be paid and our zoning sign and post returned on the day of the hearing before an Order is issued. Do not remove sign until day of hearing.

Please make the check payable to Baltimore County, Maryland, and remit to Mrs. Arlene January, Zoning Office, Room 113, County Office Building, Towson, Maryland 21204, before the hearing.

Sincerely,  
*[Signature]*  
L. J. JABLON  
Zoning Commissioner

BALTIMORE COUNTY, MARYLAND  
OFFICE OF FINANCE - REVENUE DIVISION  
MISCELLANEOUS CASH RECEIPT

No. 130560

DATE: 6/25/84 ACCOUNT: R-01-615-000  
AMOUNT: \$40.60 (cash)

RECEIVED FROM: Char-del, Inc. c/o Mr. Kelley  
FOR: Advertising & Posting Case 84-357-A

012\*\*\*\*\*406010 6256A

VALIDATION OR SIGNATURE OF CASHIER

**PETITION FOR VARIANCE**  
13th Election District

ZONING: Petition for Variance

LOCATION: Southeast corner Halethorpe Avenue and John Avenue (paper street)

DATE & TIME: Monday, June 25, 1984 at 10:00 A.M.

PUBLIC HEARING: Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson, Maryland

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing:

Petition for Variance to permit a side yard setback of 10 ft. instead of the required 25 ft.

Being the property of Char-del Inc., as shown on plat plan filed with the Zoning Department.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be received in writing by the date of the hearing set above or made at the hearing.

BY ORDER OF  
ARNOLD JABLON  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY



IN RE: PETITION ZONING VARIANCE  
SE/corner of Halethorpe Ave-  
nue and John Avenue (paper  
street) - 13th Election  
District  
Char-del, Inc.,  
Petitioner  
BEFORE THE  
ZONING COMMISSIONER  
OF BALTIMORE COUNTY  
Case No. 84-357-A

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a variance to permit a side yard setback of 10 1/2 feet instead of the required 25 feet, as more fully described on Petitioner's Exhibit 1.

The Petitioner, by its Contract Purchaser, Charles E. Kelley, appeared and testified. Mr. and Mrs. Walter Jones, neighbors, appeared and testified as Pro- testants.

Testimony indicated that the subject property, zoned D.R.5-5, is a vacant lot comprising two 20.22' x 110' parcels. Mr. Kelley, a contractor, purchase lots 1 and 2 in the subdivision known as Halethorpe Terrace in order to construct a 44' x 20' single-family dwelling which he then proposes to sell. The lot will face Halethorpe Avenue and be on a corner lot with John Street to its side. Although undersized by present standard, the lot meets the criteria of Section 304 of the Baltimore County Zoning Regulations (BCZR) in that the valid- ly approved subdivision of which these two parcels are a part was duly recorded in the Land Records of Baltimore County prior to the adoption of the BCZR, and other requirements of the height and area regulations will be complied with, and the Petitioner, as not own sufficient adjoining land to conform substan- tially to the width and area requirements. See Swarthmore Co. v. Kaestner, 266 A.2d 341.

The required side yard setbacks of ten feet would be met except that the house is to be constructed on a corner lot in a direction other than towards the side street. In such a situation by long-standing policy and custom, confirmed by prior decisions of the Zoning Commissioner, and based on Section 211.2 (BCZR, 1963), the side yard setback to the side street must be the same as the front yard setback required for the particular zoned within which the property is lo- cated, in this case 25 feet. The proposed house cannot be constructed on this site without a variance and cannot be turned in any other direction. If the variance were denied, the property would be totally useless.

The house directly across John Street on Halethorpe Avenue, opposite the subject site, was granted a similar variance. All of the parcels in the subdivi- sion are approximately 20 feet wide, and many homes are built on two such con- tiguous parcels. Therefore, the proposed home would conform and be compatible with the neighborhood.

The Protestants, who reside on Lots 5, 6, 7, and 8 as shown on Petitioner's Exhibit 1, two removed from the Petitioner's, object to the proposed dwelling because they believe it will be too close to their home which is situated on Lots 5, 6, and 7. They also believe that Petitioner's Exhibit 1, the site plan presented by Milton C. Lewis, a registered professional land surveyor, is incor- rect because they believe there is not 40 feet between Lot 2 and Lot 5 as indi- cated. However, the variance requested is for the side yard to John Street, farthest from their property. The setback from the proposed house to the common boundary line of Lots 2 and 3 is ten feet, which satisfies the law. The Pro- testants were given time to have their own survey completed to contradict Peti- tioner's Exhibit 1; however, none was received.

The Petitioner seeks relief from Section 1B02.3.C.1, pursuant to Section 307, BCZR.

An area variance may be granted where strict application of the zoning regulation "the petitioner and his property would cause practical difficulty. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the petitioner must meet the following:

1. whether strict compliance with requirement would unrea- sonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome;
2. whether the grant would do substantial injustice to ap- plicant as well as other property owners in the dis- trict or whether a lesser relaxation than that applied for would give substantial relief; and
3. whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

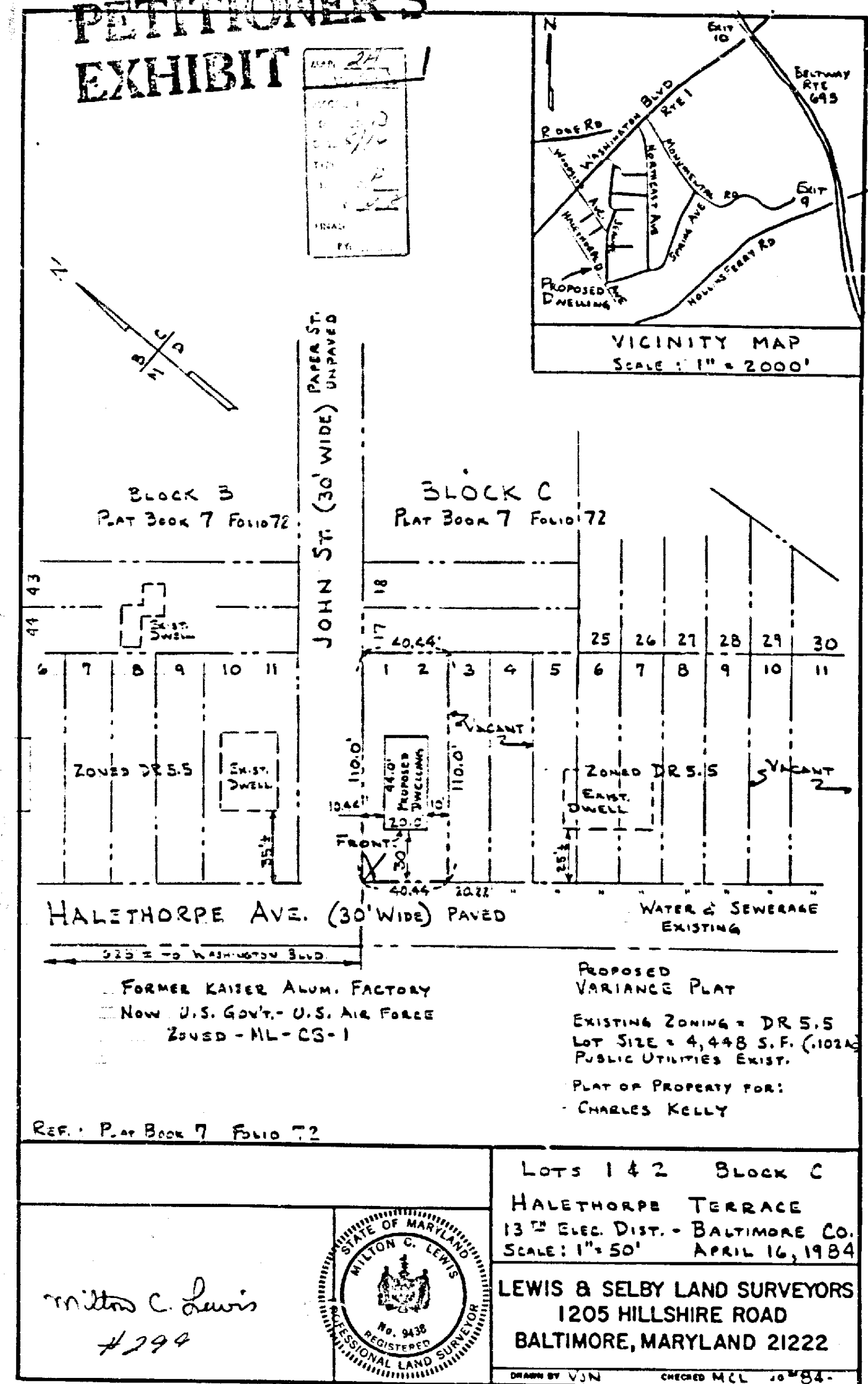
It is clear from the testimony that if the variance were granted, such use as proposed would not be contrary to the spirit of the BCZR and would not result in substantial detriment to the public good.

After due consideration of the testimony and evidence presented, it is clear that a practical difficulty or unreasonable hardship would result if the instant variance were not granted. It has been established that the requirement the Petitioner seeks relief from here would unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the vari- ance requested will not be detrimental to the public health, safety, and general welfare.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

Therefore, IT IS ORDERED by the Zoning Commissioner of Baltimore County, this 18th day of July, 1984, that the Petition for Zoning Variance to

PETITIONER'S  
EXHIBIT



permit a side yard setback of 10 1/2 feet instead of the required 25 feet be and is hereby GRANTED, from and after the date of this Order, subject to the following:

1. The Petitioner may apply for its building permit and be granted same upon receipt of this Order; however, Peti- tioner is hereby made aware that proceeding at this time is at its own risk until such time as the applica- ble appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Peti- tioner would be required to return, and be responsible for returning, said property to its original condition.

*[Signature]*  
Zoning Commissioner of  
Baltimore County

cc: Mr. Charles E. Kelley  
Mr. Walter Jones  
People's Counsel

BALTIMORE COUNTY, MARYLAND  
INTER-OFFICE CORRESPONDENCE

Arnold Jablon  
TO: Zoning Commissioner  
FROM: Norman E. Gerber, Director  
Office of Planning and Zoning  
Zoning Petition Nos. 84-346-A, 84-349-A, 84-350-A, 84-351-A, 84-352-A,  
SUBJECT: 84-353-A, 84-354-A, 84-357-A, 84-358-A, 84-359-A, 84-361-A and 84-364-SpH.

There are no comprehensive planning factors requiring comment on these petitions.

*[Signature]*  
Norman E. Gerber, Director  
Office of Planning and Zoning

NEG/JGH/sf